

SERVICE DATE – LATE RELEASE JUNE 19, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 677 (Sub-No. 1)

COMMON CARRIER OBLIGATION OF RAILROADS—  
TRANSPORTATION OF HAZARDOUS MATERIALS

Decided: June 19, 2008

By decision served on June 4, 2008, the Board announced that it will hold a public hearing beginning at 9:00 a.m. on Wednesday, July 16, 2008, at its headquarters in Washington, DC, for the purpose of examining issues related to the common carrier obligation of railroads with respect to the transportation of hazardous materials. Persons wishing to speak at the hearing were directed to notify the Board in writing and submit their written testimony no later than July 2, 2008. Written testimony from other interested parties was also due by July 2, 2008.

On June 5, 2008, Edison Electric Institute (EEI) submitted a notice of intent to participate in the hearing and a motion for an extension of time for all parties to file testimony. EEI further requested that the Board reschedule the hearing for no earlier than the week of July 28, 2008. EEI states that the due date for submitting written testimony is inconvenient, citing previously scheduled bar association meetings, the deadline for a Board decision in other proceedings,<sup>1</sup> and the summer vacation season. On June 11, 2008, the Fertilizer Institute (TFI) filed a motion to postpone the hearing date until September 15, 2008, citing the complexity of the hearing topics and conflicts with a scheduled fertilizer marketing conference. On June 12, 2008, the Chlorine Institute, Inc., Dow Chemical Company, and the National Industrial Transportation League also filed separate motions to postpone the hearing date until September 2008. The Association of American Railroads filed a response on June 13, 2008, stating that it did not oppose an extension of the hearing date for up to 2 weeks, until July 30, 2008.

In order to accommodate the witness availability concerns raised by EEI and TFI, the Board will grant a short extension and hold the hearing on July 22, 2008. But the parties have not justified their requests for any further extension of time. The time allotted is adequate for interested persons to submit thoughtful, thorough comments. Moreover, the Board does not wish to delay consideration of the important issues to be discussed at the hearing. Written submissions by hearing participants, as well as other interested persons who do not wish to appear at the hearing, are due by July 8, 2008.

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<sup>1</sup> The statutory deadline for the Board's decisions in E.I. DuPont de Nemours and Company v. CSX Transportation, Inc., STB Docket Nos. 42099, 42100, and 42101 is July 3, 2008, and EEI requests time to consider these decisions prior to submitting written testimony.

It is ordered:

1. The parties' specific requests for an extension of time are denied, but a short extension of the schedule, as discussed above, is granted. The hearing in this proceeding is scheduled for July 22, 2008 beginning at 9:00 a.m., and written testimony is due by July 8, 2008.

2. This decision is effective on the date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan  
Acting Secretary